

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Crl. Misc. No.M-6063 of 2019

Date of Decision:- 08.02.2019

Madan Gopal

....Petitioner

vs.

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Ramesh Sharma, Advocate,
for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner seeks anticipatory bail in FIR No.152 dated 19.07.2018 registered at Police Station Loharu, District Bhiwani, under Sections 272, 420, 467, 471, 120-B IPC and Section 61 of the Punjab Excise Act, 1914.

The aforementioned FIR came to be registered on account of secret information received by the police regarding illegal distillation being carried out. Raid was conducted and a huge quantity of illicit liquor, raw material for preparing the same as well as machines were recovered.

Learned counsel for the petitioner submits that the petitioner is not named in the FIR. He was also not arrested at the spot. A co-accused was arrested at the spot who named one Mahender Shri Niwas and who further suffered a disclosure statement that the petitioner was the supplier of material for preparing the illicit liquor. Thus, apart from the disclosure statement of a co-accused, there is no other evidence available against the petitioner. The observations of the learned Additional Sessions Judge, Bhiwani, that there are five other criminal cases of similar nature pending against the petitioner are incorrect to the extent that the petitioner has been acquitted in one case and in two other cases although he has

resident of Faridabad, whereas the recovery has been effected from Bhiwani. Therefore, false implication cannot be ruled out. The investigation in the case is complete and challan has already been presented and, thus, custodial interrogation of the petitioner is not necessary.

Having considered the submissions of learned counsel for the petitioner, I am not inclined to accept the same. As per the disclosure statement of a co-accused, the petitioner is the supplier of material used for preparation of illicit liquor. At the stage of anticipatory bail, the Court has to be guided by the evidence collected by the police and its admissibility is not to be examined. The contention that no recovery is to be effected from the petitioner is also misplaced and misconceived as the police would require to unearth the sources from where petitioner is obtaining the material and supplying it to his customers. Thus, even though the challan against the co-accused has been presented, yet the custodial interrogation of the petitioner is necessary. It is not denied that five other criminal cases of the same nature are pending against the petitioner and even if he has been acquitted in one of them, it is not very material.

For the aforementioned reasons, the prayer cannot be accepted and the petition is accordingly dismissed.

February 08, 2019
poonam

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned **Yes**

Whether reportable **No**